

EXHIBIT 1

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

1:22-cv-24270-GAYLES

NINGBO YONGJIA AIDUO AUTO PARTS
MANU CO., LTD.,

Plaintiff,

v.

THE INDIVIDUALS, PARTNERSHIPS AND
UNINCORPORATED ASSOCIATIONS IDENTIFIED
ON SCHEDULE "A",

Defendants.

_____/

**DECLARATION OF PLAINTIFF IN SUPPORT OF PLAINTIFF'S RESPONSE IN
OPPOSITION TO DISMISSED DEFENDANT WAXMAN SALES, LLC'S d/ba BIRDROCK
HOME MOTION FOR AWARD OF ATTORNEYS FEES AND DAMAGES**

I, Denny You, declare as follows:

1. I am over 18 years of age, and I have personal knowledge of the facts set forth herein.
2. I make this declaration on behalf of Plaintiff NINGBO YONGJIA AIDUO AUTO PARTS MANU CO., LTD. ("Plaintiff") in support of Plaintiff's Response In Opposition To Dismissed Defendant Waxman Sales, LLC d/b/a Birdrock ("Birdrock") Home's Motion For Award Of Attorney's Fees And Damages.
3. If called upon to do so, I could and would competently testify to the following facts set forth below.
4. I am employed by Plaintiff and I am a Principal with personal knowledge of the facts contained herein and all relevant facts associated with this lawsuit.

5. After due diligence and careful consideration, Plaintiff discovered Defendants were manufacturing, promoting, advertising, offering for sale and/or selling goods using Plaintiff's design patent under registration number D 891,522 S ("the 138 Patent" / "Plaintiff's patent"), without authorization, through e-commerce stores operating under the seller identities named in Schedule A attached to the Complaint as an Exhibit.

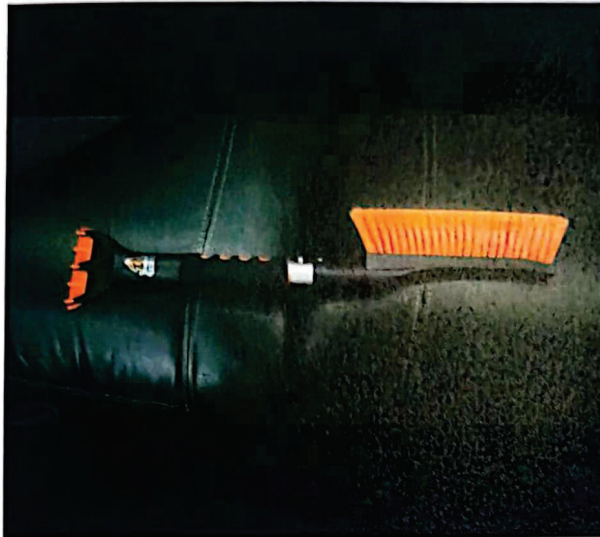
6. Plaintiff conducted a search which established that Defendants were using various storefronts including but not limited to; Amazon, eBay and Wish e-commerce platforms, to sell and offer to sell products to consumers in the United States and the State of Florida, including the Southern District of Florida, utilizing the 138 Patent without authorization.

7. As part of its investigation, Plaintiff reviewed and researched the listing of potential infringers as well as its storefront. The listing review was carried out to confirm the Plaintiff's claim of IP infringement.

8. The listing review included Birdrock's Amazon listing at <https://www.amazon.com/Snow-Moover-Extendable-Squeegee-Scraper/dp/B076PVN38H/>.

9. In the particular case of Birdrock, it's Amazon sales listing contained all the common traits and characteristics found in sales involving Chinese counterfeiters. The sales listings are inconsistent, sell different products through the history of the listing, have products of lesser quality and make it difficult to return items after purchased. The listing contained an alleged date of product availability dating back to 2017, but there is evidence that Birdrock shipped other products significantly different from the product as advertised, had accusations that its reviews were fake and that the product was not as advertised, and made it extremely difficult for customers to return product. See composite Exhibit A and below snapshots from Birdrock's listing:

 [View Image Gallery](#)



Nicole Woodley

★☆☆☆☆ **Did not receive product as described.**

Reviewed in the United States on December 9, 2020

Was expecting something like what was pictured. What I got is pictured below. It isn't even close. It doesn't even expand like it says in the description. I'm pretty disappointed.

[Images in this review](#)



Xac-the-Bouvier

★☆☆☆☆ **Do not buy! Bad product and bad seller.**

Reviewed in the United States on December 11, 2022

Size: Large - 58 inch **Verified Purchase**

It is too heavy. The swivel doesn't stay put. It isn't stable when extended. It's twice as expensive as similar products at big box stores. And the seller makes it incredibly difficult to return.

4 people found this helpful

[Helpful](#)

[Report abuse](#)



John P.

★☆☆☆☆ **DO NOT BUY THIS ITEM**

Reviewed in the United States on October 22, 2022

Size: 39 inch **Verified Purchase**

Right out of the box I tried to assemble this item and while sliding tab B into the receiving end it snapped. the connections are a rigid plastic which means if you wanted to disassemble this for easier storage it's more likely you're going to break it on the second or third attempt to do so. The rest of the construction seems sturdy enough, but the connections are its weakest point. Additionally if you DO want to return it your options are limited for free return. UPS store is not an option so ease of return/exchange is not provided by this seller.

There are better options for less money than this item.



☆☆☆☆☆ Broke on the first use

By Lidiya Kravchenko in the United States on January 20, 2019

Broke on the first use, brush broke out from the stick. Couldn't move even 1 inch of snow, very disappointing will be returning it. Please buyers be aware the rest of reviews on this must be fake. see less

☆☆☆☆☆ Pivoting brush broke from the handle after a few uses. Possible fake reviews happening. Look for a different product.

By MarkB in the United States on February 11, 2018

Edit on 2/18/2018: Belatedly I found that Fakespot.com gives this Amazon item page a grade of "C" as of 2/18/2018: "Our engine has profiled the reviewer patterns and has determined that there may be deception involved. Our engine has determined that the review content quality is low." Buyer, beware.

My original review from 2/11/2018:

My Snow Moover 39" brush arrived January 3rd, 2018, and it broke yesterday after only a few uses. The break happened, as others experienced, at the brush head's pivot. Removing snow from my car, I accidentally hooked the brush at the base of a windshield wiper, snapping the brush into two useless pieces. The tiny amount of force it took to ruin this brush stunned me. I just stood there in disbelief a few moments.

That's a shame. The brush is otherwise well-designed. see less

10. Additionally, the listing address for Waxman was also suspect. Birdrock's address did not comport with traditional U.S. addresses as it lacked a Street or Intersection (i.e., 11612 FM 2244 SUITE 1-200, SUITE 1-200, Austin, TX, 78738), US.

11. Further to the above, the fact that Birdrock has an office in China further strengthened our good faith belief.

12. In short, the look and content of the Amazon product listing, the non-traditional U.S. address provided, the shipping of products significantly different from the product as advertised, the customer reviews that the product was not as advertised, the customer complaints regarding return difficulties, and the office in China, all provided probable cause to conclude that Birdrock was a likely Chinese counterfeiter or infringer disguised as a U.S. entity.

13. Plaintiff's decision to include Birdrock as a Defendant was based on a good faith belief that it was a Chinese counterfeiter. Upon learning that Waxman was a U.S. based entity, Plaintiff filed a Notice of Dismissal without Prejudice out of an abundance of caution, and such dismissal should not be interpreted as Plaintiff not having a patent infringement case against Birdrock.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 20th day of April, 2023.

NINGBO YONGJIA AIDUO AUTO PARTS
MANU CO., LTD.

Denny You
Denny You
Principal of Plaintiff

EXHIBIT A

4/19/23, 4:52 PM

Did not receive product as described

amazon

Hello Select your address

All Search Amazon

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Returns & Orders

0

All

Clinic

Customer Service

Best Sellers

Amazon Basics

New Releases

Prime

Today's Deals

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Books

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Fashion

Amazon Home

Shop Mother's Day

Customer Review

Nicole Woolsey


☆☆☆☆☆

Did not receive product as described.

Reviewed in the United States us on December 9, 2020

Size: 39 inch | Verified Purchase

Was expecting something like what was pictured. What I got is pictured below. It isn't even close. It doesn't even expand like it says in the description. I'm pretty disappointed.




Helpful

Report

Permalink

Product Details

Snow MOOver 39" Extendable Sn... by Snow MOOver

☆☆☆☆☆ 4.6 out of 5

4,225 global ratings

5 star

76%

4 star

14%

3 star

6%

2 star

1%

1 star

3%

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Customer Review

 John P.

☆☆☆☆☆


DO NOT BUY THIS ITEM

Reviewed in the United States us on October 22, 2022

Size: 39 inch | **Verified Purchase**

Right out of the box I tried to assemble this item and while sliding tab B into the receiving end it snapped. the connections are a rigid plastic which means if you wanted to disassemble this for easier storage it's more likely you're going to break it on the second or third attempt to do so. The rest of the construction seems sturdy enough, but the connections are its weakest point. Additionally if you DO want to return it your options are limited for free return. UPS store is not an option so ease of return/exchange is not provided by this seller.

There are better options for less money than this item.




One person found this helpful

Helpful

 | [Report](#) | [Permalink](#)

Product Details



☆☆☆☆☆

4.6 out of 5

4,225 global ratings

5 star

76%

4 star

14%

3 star

6%

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1 star

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Amazon Photos

Unlimited Photo Storage Free With Prime

Prime Video Direct

Video Distribution Made Easy

Shopbop

Designer Fashion Brands

Amazon Warehouse

Great Deals on Quality Used Products

Whole Foods Market

America's Healthiest Grocery Store

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Deals and Shenanigans

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Customer Review

MarkB

★★★★☆

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Reviewed in the United States us on February 11, 2018

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That's a shame. The brush is otherwise well-designed.

231 people found this helpful

Helpful

Report

Permalink

Product Details

Snow MOOver 39" Extendable Sn...
by Snow MOOver

★★★★☆

4.6 out of 5

4,225 global ratings

5 star

76%

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4/19/23, 1:23 PM

Reviewing crush books in the handle after all reviews. Possible fake reviews happening 2021 for a different product.

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Customer Review

burchie15

★★★★★

Cheap Materials!

Reviewed in the United States us on February 12, 2019

Size: 39 inch | **Verified Purchase**

Cheap materials. Was brushing 2-3 inches of snow off my car and the head broke off.

Helpful

Report

Permalink

Product Details

Snow MOOver 39" Extendable Sn...

by Snow MOOver

★★★★★

4.6 out of 5

4,225 global ratings

5 star

76%

4 star

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Customer Review


 Lidiya Kravchenko
★★★★☆ **Broke on the first use**
Reviewed in the United States us on January 20, 2019
Size: 39 inch | **Verified Purchase**

Broke on the first use, brush broke out from the stick. Couldn't more even 1 inch of snow, very disappointing will be returning it. Please buyers be aware the rest of reviews on this must be fake.

2 people found this helpful

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Product Details

 Snow MOOver 39" Extendable Sn...
by Snow MOOver


★★★★☆ 4.6 out of 5

4,225 global ratings


5 star	<div></div>	76%
4 star	<div></div>	14%
3 star	<div></div>	6%
2 star	<div></div>	1%
1 star	<div></div>	3%

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AstroAI 27 Inch Snow Brush and Detachable Ice Scraper with Ergonomic Foam Grip for Cars, Trucks, SUVs (Heavy Duty ABS, PVC...)
★★★★☆ 24,614
\$13.99
FREE Shipping on orders over \$25 shipped by Amazon




Snow Shovel for Driveway Car Home Garage - Portable Folding Snow Shovel with Retractable...
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BIRDROCK HOME 34" Folding Emergency Snow Shovel for Car | Small & Compact | Tool for Snow Camping,...
★★★★☆ 2,172
\$39.96
Get it as soon as **Wednesday, Apr 26**



AstroAI 2 Pack 27" Snow Brush and Detachable Deluxe Ice Scraper with Ergonomic Foam Grip for Cars (Heavy Duty ABS,...
★★★★☆ 3,466
\$19.99
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AstroAI 39" Folding Snow Shovel for Car, Extendable Snow Shovel with Thickened Aluminum Handle and...
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AstroAI 47.2" Ice Scrapers for Car Windshield, 3 in 1 Sturdy Snow Brush with Squeegee, 10 Adjustab...
★★★★☆ 1,914
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anngrowy 41" Ice Scraper Snow Brush for Car Snow Scraper and Brush Snow Broom Windshield Scraper Ca...
★★★★☆ 348
\$23.99
Get it as soon as **Wednesday, Apr 26**
FREE Shipping on orders over \$25 shipped by Amazon




Snow MOOver 46" Extendable Snow Brush with Detachable Ice Scraper for Car | Extra Wide 18" Squeegee &...
★★★★☆ 1,512
\$27.96
Get it as soon as **Wednesday, Apr 26**



AstroAI 47.2" Ice Scraper and Extendable Snow Brush for Car Windshield with Foam Grip and 360° Pivoting Brush Head fo...
★★★★☆ 3,288
\$28.99
Get it as soon as **Wednesday, Apr 26**
FREE Shipping on orders over \$25 shipped by Amazon



JOYTUTUS 47.7" Extendable Snow Brush and Ice Scraper, 270° Pivoting Snow Scraper Brush for Car...
★★★★☆ 3,045
\$21.99
Get it as soon as **Wednesday, Apr 26**
FREE Shipping on orders over \$25 shipped by Amazon



BIRDROCK HOME 55" Extendable Snow Brush with Detachable Ice Scraper for Car | 14" Wide Foam Head | Size...
★★★★☆ 3,599
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Customer Review

World Traveler

★★★★★

Broken day 1, good to know, and why 5 stars

Reviewed in the United States us on January 26, 2020

Size: 39 inch | **Verified Purchase**

I was not pleased at all when I first tried to use it out of the box - the brush/squeegee swivel head wouldn't lock and I found a hairline crack at the brush/wiper head joint (photo), similar to what some other purchasers were finding. Despite my aggravation, I'm giving Snowmoover 5 stars because they did stand behind their product and they sent me a replacement at no cost to me in a reasonable time. Also, the replacement appears to have a much studier redesigned swivel joint even although the model numbers on the box are the same.

I hated the idea of sending the new but broken Snowmoover to the dump/landfill. Being a retired mechanic, I decided to see if I could fix the broken joint. Less than \$10 materials from a box store (3ft long 1/4in diam. threaded zinc plated rod, 2 washers and 2 nuts), and 30 minutes of my time, I drilled a hole through the assembly along the main axis/cord line, ran the rod through broken joint, and made it permanently locked in place. I was really surprised at how well it worked! My wife insisted that the repaired Snowmoover is hers now :). I still have 2ft of rod left if the new one happens to break prematurely.

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Product Details

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by Snow MOOver

★★★★☆

4.6 out of 5

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